

## OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

### 2018 Trafficking in Persons Report

#### SRI LANKA: Tier 2

The Government of Sri Lanka does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore Sri Lanka remained on Tier 2. The government demonstrated increasing efforts by identifying more potential trafficking victims and partnering with an international organization to launch a national awareness campaign and train hundreds of local, district, and state officials and civil society members on victim identification and referral procedures. The government also amended legislation to allow diplomatic missions to record evidence and take statements from victims or witnesses overseas, which resulted in the referral of 29 statements related to alleged human trafficking to the Criminal Investigation Department (CID) for further investigation. However, the government did not meet the minimum standards in several key areas. For the fourth consecutive year, the courts did not convict any traffickers under the government's trafficking statute, although they continued to convict potential trafficking cases under the procurement law for obtaining a person to become a prostitute. Only one person convicted for procurement served prison time; two other convictions were suspended. The capacity of local officials to proactively identify victims was low and observers reported authorities did not make adequate efforts to screen for indicators of human trafficking among individuals arrested or charged for prostitution, vagrancy, or immigration offenses. The government provided no specialized services to male victims and maintained specific requirements for migration of female migrant workers and those migrating for domestic work, which observers stated increased the likelihood women would migrate illegally and therefore heightened their vulnerability to human trafficking. Complicity remained a problem; while the government secured a conviction of one official for preparing forged documents and sentenced him to one year in prison, the government did not initiate any new investigations or prosecutions of allegedly complicit officials during the year.

#### RECOMMENDATIONS FOR SRI LANKA

While respecting due process, improve efforts to investigate and prosecute suspected traffickers, including complicit officials, and convict and punish offenders with sentences commensurate with other serious crimes; increase efforts to proactively identify trafficking victims and train officials on victim identification and referral procedures, especially to ensure victims are not detained or otherwise penalized for unlawful acts, such as immigration violations or prostitution, committed as a direct result of having been subjected to human trafficking; improve protection services to ensure identified victims, including men and children, receive specialized care services; take steps to eliminate all recruitment fees charged to workers by labor recruiters and instead ensure they are paid by employers; expand the foreign employment bureau's (SLBFE) mandate

to include the regulation of sub-agents; promote safe and legal migration and ensure migration regulations do not discriminate on the basis of gender; and increase efforts of the task force to institutionalize sustained government coordination efforts.

## PROSECUTION

The government maintained overall law enforcement efforts to address human trafficking. Section 360(C) of the penal code criminalized labor and sex trafficking and prescribed penalties of two to 20 years imprisonment and fines, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious offenses, such as rape. The government also frequently used section 360(A), a procurement statute that criminalized obtaining a person to become a prostitute, with or without the consent of the person, to prosecute sex trafficking cases. Procurement crimes carried lesser penalties of two to 10 years imprisonment and fines, and these cases were often brought before magistrate judges who were generally only authorized to issue sentences of up to two years imprisonment.

During the reporting period, CID and the police initiated 15 trafficking investigations, compared with nine investigations in 2016. Of the 15 investigations, 10 were categorized as possible forced labor cases, four as sex trafficking, and one as selling of a child for exploitation. The government initiated 28 prosecutions during the reporting period, four under section 360(C), which included three sex trafficking cases and one case of selling a child for exploitation, and 24 under the procurement statute. This was compared to 35 prosecutions in the previous reporting period and 12 prosecutions in 2015. For the fourth consecutive year, the courts did not convict any traffickers under section 360(C). Courts did, however, convict three persons under the procurement statute compared with seven persons during the previous reporting period and one person in 2015. Courts suspended two of the three imprisonment sentences; instead of imprisonment, the convicted were ordered to pay fines of 1,500 Sri Lanka rupees (LKR) (\$10) and 5,000 LKR (\$33), with default sentences of six months imprisonment and one month respectively imposed if the convicted were unable to pay the fines. In addition, the court ordered one of the convicted to pay restitution to the victim of 50,000 LKR (\$330). The sentences of fines alone were not sufficiently stringent to deter the crime. The court sentenced one person to five years imprisonment and ordered the convicted to pay a fine of 1,000 LKR (\$7) and restitution to the victim of 75,000 LKR (\$490). The government's reliance on procurement charges resulted from police not thoroughly investigating potential human trafficking cases for elements of force, fraud, or coercion and difficulty securing evidence from victims. Prosecutors could pursue procurement cases without the cooperation of the victim.

In November 2017, the government amended the Assistance to and Protection of Victims of Crime and Witnesses Act to authorize Sri Lankan diplomatic missions to record evidence and take statements from a victim or witness outside Sri Lanka. The anti-trafficking unit of the SLBFE, created in the previous reporting period, received 38 complaints regarding possible trafficking crimes during the reporting period; of these complaints, 19 were referred from Sri Lankan embassies. The SLBFE referred 12 of

these cases to the CID's anti-trafficking unit for further investigation. Separately, Sri Lankan diplomatic missions referred 29 witness and victim affidavits from abroad to CID for investigation. In two cases, CID coordinated with foreign authorities in Cyprus and Thailand on investigations involving Sri Lankan victims.

Official complicity in trafficking offenses remained a problem. Some sub-agents reportedly worked with officials to procure forged or modified documents, or genuine documents with falsified data, to facilitate travel abroad. In the previous reporting period, the Ministry of Foreign Employment (MFE) referred six cases of officials allegedly creating fraudulent documents to the police for further investigation. At the end of the current reporting period, the government reported one official had been convicted of preparation of forged documents and sentenced to one year imprisonment, with an additional year of imprisonment suspended, and a fine of 125,000 LKR (\$810); the other five investigations remained ongoing at the end of the reporting period.

## PROTECTION

The government made modest improvements in protection efforts. The government reported identifying 46 potential trafficking victims, an increase compared with 23 potential victims identified in 2016. The government utilized standard operating procedures (SOPs) for the identification and referral of potential victims to protection services and in partnership with an international organization, conducted multiple trainings on victim identification and referral for 875 members of civil society and local, district, and state officials, including health, probation, police, immigration, CID, and National Child Protection Authority (NCPA) officials. However, the government had not issued circulars and directives to relevant agencies to guide staff to follow the SOPs and both the government and members of civil society stated the capacity of local officials to identify trafficking victims was low. Observers reported Sri Lankan authorities jailed and charged individuals, possibly including children, for prostitution, vagrancy, or immigration offenses without adequate efforts to evaluate whether they were victims of trafficking. An NGO reported sex trafficking victims were reluctant to approach law enforcement for help due to perception of police hostility and social stigma associated with being a victim.

The Ministry of Women and Child Affairs continued to operate a shelter for female victims of violence, including trafficking victims, although the shelter did not house any trafficking victims during the reporting period. The government did not have specialized rehabilitation services available for male trafficking victims. The government referred child victims to child-specific rehabilitation centers; however, an NGO reported in the previous reporting period that some children who were not identified as victims and instead arrested for prostitution crimes were held in government detention centers. The government acknowledged the possible arrest and detention of children who may be sex trafficking victims. The government provided training for 100 child probation officers and institutional staff and conducted a survey to identify and refer such victims to rehabilitation services. SLBFE continued to operate 11 short-term shelters for female migrant workers in distress at Sri Lankan diplomatic missions in 10 countries. During the

reporting period, the shelters served 2,392 migrant workers; authorities did not report how many were trafficking victims. SLBFE also continued to operate a transit shelter near the Colombo international airport for returning male and female migrant workers who encountered abuse abroad. In 2017, the transit shelter provided medical, counseling, transportation, food, or accommodation, as needed, to 1,692 female and 1,546 male migrant workers, some of whom may have been trafficking victims.

Foreign victims who were officially identified had access to the same rehabilitation services as domestic victims. During the reporting period, the government provided a foreign victim with protection, medical, legal, and translation services. An international organization and NGO provided counseling and shelter and the victim was repatriated with assistance from the government and the international organization. The victim identification SOPs allow foreign victims who cooperate in prosecutions to receive a visa extension until the end of the trial; however, the government did not provide foreign victims with legal alternatives to deportation to countries where they might face hardship or retribution after trial completion or for victims who did not cooperate with prosecution.

## PREVENTION

The government increased efforts to prevent trafficking. The inter-ministerial anti-trafficking task force increased its coordination through more frequent meetings; during the reporting period the task force met seven times and a separate project steering sub-committee met seven times on prevention activities. The government continued to implement the national action plan to combat human trafficking. In partnership with an international organization, the government launched a public awareness campaign on five national television channels. The campaign featured a hotline number run by an international organization, which received several calls seeking information and assistance, including from overseas, which were referred to the government for investigation. The government also distributed leaflets, posters, and brochures to local officials, NGOs, and the general public. The NCPA held awareness events on child sex tourism in October 2017 in coastal areas with local officials and schools.

SLBFE maintained its ban on migration of male and female domestic workers younger than age 21 and female domestic workers younger than age 25 to Saudi Arabia and younger than age 23 to other parts of the Middle East. SLBFE also required all female migrant workers below age 45 to submit a “family background report” to ensure the woman did not have children younger than age five. Observers reported any ban on migration increased the likelihood of migrating illegally and therefore heightened the vulnerability to human trafficking. During the reporting period, SLBFE’s legal division filed 107 cases against licensed and 50 cases against unlicensed recruiters for fraudulent practices, compared with a total of 315 cases in 2016. SLBFE conducted multiple awareness trainings for recruitment agents and potential migrant workers and in February 2018 SLBFE, CID, and officials from the attorney general’s office went to Sri Lankan missions in Oman, Saudi Arabia, and United Arab Emirates (UAE) to train mission staff on combating human trafficking. In February 2018, MFE and the Government of UAE signed a memorandum of understanding to produce increased

transparency, monitoring, and compliance with migrant worker recruitment systems; reportedly, only recruitment agencies registered with SLBFE will be able to offer overseas employment to domestic workers. The MFE did not have the legal authority to regulate foreign employment recruitment sub-agents under SLBFE, which officials recognized as a problem contributing to trafficking. MFE partnered with an international organization to study foreign employment recruitment intermediaries and stated the government continued to explore an amendment to the Foreign Employment Act to address the oversight of sub-agents and the investigative authority of MFE officials. The government did not report efforts to reduce the demand for forced labor during the reporting period; however, in an attempt to reduce demand for the domestic sex trade, the government's awareness campaign highlighted the negative social consequences of procuring commercial sex. The government provided anti-trafficking training to military personnel prior to their deployments abroad on international peacekeeping missions. The Ministry of Foreign Affairs initiated training for diplomats and other officials who would be deployed to overseas missions, including SLBFE and defense officers, on prevention and identification of trafficking.

## TRAFFICKING PROFILE

As reported over the last five years, Sri Lanka is primarily a source, destination, and, to a lesser extent, a transit country for men, women, and children subjected to forced labor and sex trafficking. Some of the Sri Lankan men, women, and children who migrate to the Middle East, Southeast Asia, and Afghanistan to work in the construction, garment, and domestic service sectors are subjected to forced labor. Before leaving Sri Lanka, many migrant workers go into debt to pay high recruitment fees imposed by unscrupulous labor recruitment agencies—most of them members of Sri Lanka's association of licensed foreign employment agencies—and their unlicensed sub-agents. Migrant laborers, especially women, receive a monetary advance as an incentive to move abroad, only to be trapped in debt bondage upon arrival at their destination. Some recruitment agencies commit fraud by changing the agreed upon job, employer, conditions, or salary after the migrant's arrival. Some Sri Lankan women are subjected to forced prostitution in Cyprus, Maldives, Malaysia, Singapore, Thailand, and elsewhere. Sri Lanka is a transit point for Nepali women subjected to forced labor in the Middle East.

Within the country, women and children are subjected to sex trafficking in brothels. Boys are more likely than girls to be exploited in commercial sex in coastal areas for child sex tourism. Children, individuals with physical deformities, and those from socially vulnerable groups are forced to beg or engage in criminal activity in Sri Lanka's largest cities. Some child domestic workers in Colombo, generally Tamils from the tea estate region, are subjected to physical, sexual, and mental abuse, non-payment of wages, and restrictions of movement—indicators of labor trafficking. In recent years, a small number of women from other Asian and Central Asian countries have been subjected to forced prostitution in Sri Lanka. Police reportedly accept bribes to permit brothels to operate, some of which exploit trafficking victims. Sub-agents collude with officials to procure fake or falsified travel documents to facilitate travel of Sri Lankans abroad.